

MEETING SUMMARY

NACEPT Superfund Subcommittee

September 3-5, 2003

Wyndham City Center Hotel
Washington D.C.



*Prepared by Meridian Institute
September, 2003*

NACEPT Superfund Subcommittee

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Washington D.C.

The Superfund Subcommittee of the National Advisory Council for Environmental Policy and Technology (NACEPT) held its sixth meeting September 3-5, 2003 in Washington D.C. This document summarizes discussion topics and key decisions made during the meeting. The meeting was open to the public and audio recorded. Interested individuals and members of the press were present as observers. The Subcommittee's agenda designated several opportunities for public comment. A written transcript was prepared and is available through the Environmental Protection Agency's (EPA) Docket #SFUND-2002-0005. Angelo Carasea, the Designated Federal Officer (DFO), is the primary point of contact for all public and press inquiries.

The September 2003 meeting was intended to accomplish the following objectives:

- Provide an opportunity for the Subcommittee to review and discuss the August 03 draft report.
- Engage the full Subcommittee in discussions regarding the draft recommendations.
- Identify any gaps in the recommendations being considered by the Subcommittee.
- Revise the schedule for the development of the Subcommittee's report.
- Provide an opportunity for public comment.

Welcome from the Subcommittee Chair

Dr. Raymond Loehr, Chairman of the Subcommittee, opened the meeting and welcomed the Subcommittee members. He introduced John Ehrmann, the lead facilitator for the group, from Meridian Institute. Dr. Loehr summarized the Subcommittee's charge, its activity since the fourth meeting and the goals for the sixth meeting. The Introductory Statement was available as a handout and is included in Attachment A.

Welcome from EPA

Marianne Horinko, Acting Administrator of EPA, welcomed the Subcommittee and thanked them for their ongoing commitment to their charge. She reaffirmed the Agency's support for the work of the Subcommittee and their commitment to implementing the recommendations that result from this effort. Steps are already being made within the Agency to prepare for implementing the recommendations being developed by the Subcommittee. She emphasized the Agency's strong preference for a document that represents the consensus of the Subcommittee and recognized the value of presenting clearly articulated options on topics where consensus does not exist.

Introduction of the Revised Draft Report

John Ehrmann introduced the revised August 03 draft report and explained the major changes in comparison to the June 03 version. Key changes included:

- Removal of all the recommendations for studies and evaluations
- Removal of the Key Assumptions section
- Removal of the background information for all the sections to simplify and shorten the document.

Dr. Ehrmann explained that the overall approach for this revision was to develop a clearer and paired-down document, making the recommendations more accessible, so that the Subcommittee could more readily debate the issues and determine where consensus can be achieved.

Group Discussion of Draft Report

Discussion of the draft report began on Wednesday and continued through Friday morning. The group agreed that there were still a lot of issues to be discussed and resolved. Some individuals felt that the revised outline is good and that it would be worthwhile to go through the language and identify which recommendations reflect consensus and which ones do not. Some members believed that the report over represented the areas of consensus. Some members expressed an interest in integrating more of the radical ideas that had been proposed. Concerns were raised about inconsistencies in the document.

Details of the discussion are available in the meeting transcript through the DFO. Key decisions are summarized below.

Background and Charge

The group agreed to changes in the Background and Charge section. More detail will be added to the description of the Subcommittee's revision to the charge and how the Subcommittee framed the issues before it.

NPL Recommendations

Additional background and context will be added to the introduction of the section with explanations of the following issues:

The NPL should represent true national priorities, but:

- A range of views exists on what types of risks should be highest priority for the NPL.
- A range of views exists on funding needs and sources.
- A range of views exists on how the NPL should be used. For example:
 - Only list sites you can fund (and address implications)
 - List all the sites with a legitimate HRS score of 28.5 (and address implications)
 - Identify a middle road.

The NPL section will be further modified by clarifying the issue and problem being addressed. Recommendation 1 from the August 03 draft report will likely be removed. The following organization will be used as a starting point for the section redrafting:

1. How to reduce the number of sites needing cleanup?
2. How to make the best listing decisions?
3. How to set priorities when prioritization is needed?
4. How to increase efficiency/resources for the program?
5. How to increase transparency?

Mega Sites

Additional background and context will be added to the introduction of the section with elaboration on the issues with defining “mega sites” and describing the nature of the funding concern (blip or ongoing). Clarification of the issue or problem statement and corresponding recommendations will be provided to address the following questions:

1. How to address the funding concern (is there one)?
2. How to manage large, complex sites to most efficiently achieve appropriate cleanups?
3. Should special attention be paid to managing these sites?

Measuring Program Progress

As with the other sections of the report, additional background and context will be added to the introduction of the section. Additional changes to the MPP section agreed to include the following:

- Integrate the substance of the Performance Profile recommendations (from the June 03 draft) back into the text.
- Link recommendations from the rest of the report into this section so that we are recommending that the Program be measured on the same principles and priorities set in other recommendations.
- Further develop the ideas in the institutional coordination recommendation.

Discussion of Timing of Subcommittee Report

Throughout the discussions of the draft report, a number of Subcommittee members raised strong concerns that the Subcommittee would not be able to adequately meet its charge in the amount of time allotted by EPA. Subcommittee members requested that the Subcommittee chair raise these concerns with EPA leadership and request that the Agency extend the deadline for the Subcommittee report past December 2003. The Subcommittee chair acknowledged these concerns and agreed to transmit them to EPA.

Discussion of NACEPT Council review of the draft report

On Friday, the Subcommittee was reminded that the full NACEPT Council had asked for a briefing on their progress at their next meeting (September 24, 2003). The Chair was scheduled to appear before the Council to present the draft report. His plan was to focus

on the August 03 version and not attempt to revise the message significantly because written comments were still being submitted.

Public Comment

No public comments were made. Public Comment was received in writing from the National Mining Association and was posted to the Subcommittee website and circulated to the Subcommittee members.

Next steps

On Friday, the Subcommittee discussed a proposed path forward for producing the next draft of the report and agreed to a series of specific next steps.

Key next steps include the following.

- Comments on the August 03 Draft Report were due to Meridian by September 12.
- September and October will be used to refine the draft and develop additional sections of the report. Meridian/Ross will coordinate the involvement of Subcommittee members in these efforts upon request and based on comments made on the draft report. Conference calls will be scheduled as necessary to refine specific sections of the report.
- The next draft of the report will be circulated to the Subcommittee prior to the next meeting.
- Meridian/Ross will investigate the options for follow-up on the ATSDR and institutional coordination issues. Interim meetings and or conference calls will be considered.

Key elements of the approach to producing the next draft of the report include the following:

- The next iteration of the report will be modified based on comments received from Subcommittee members in the meeting and in writing.
- Minor changes will be made to the existing organization of the report. The following main section headings will be used as a starting place for reorganizing the report:
 1. Executive summary
 2. Subcommittee members
 3. Introduction from the chair
 4. Background and charge to the Subcommittee
 5. Use of the NPL
 6. Mega sites
 7. Measuring program progress
 8. Other issues and concerns
- Additional context and background will be added (including description of current practices/status quo) throughout the report. A discussion of the implications of the ranges of views and recommendations will also be added where needed. Most existing recommendations will be carried forward. The text will be revised to better clarify where consensus exists and in the cases where it does not exist, a range of views will be presented. The following categories of information will be

used as a starting place for reorganizing the recommendations sections:

- Background and context
- Issue / problem statements – topic areas will be presented in parallel to subsequent recommendation sections
- Recommendation followed by amplifying information

Next Meetings

The next meeting of the Subcommittee will be held in Washington D.C., November 5-7, 2003. The meeting agenda will be focused on review, comment and deliberation over the revised draft of the Subcommittee report. The agenda will be structured to emphasize areas the Subcommittee has identified as needing additional deliberation. Meridian/Ross will make final decisions on those areas based on Subcommittee comments on the draft report. Preliminary topics identified include: mega sites, funding and efficiencies, and the institutional coordination issues. A morning session is being developed for Wednesday, November 5th to respond to members' requests. The agenda will likely start around 9:00 am on Wednesday, November 5th and end between noon and 2:00 pm on Friday, November 7th.

An additional meeting of the Subcommittee is planned in the Washington DC area for December 9-11, 2003.

The Subcommittee meeting adjourned at approximately 12:35 p.m. on Friday, September 5, 2003.

ATTACHMENTS

- A. Meeting Introductory Information
- B. List of Presentations and Handouts
- C. List of Subcommittee Members and Staff in Attendance
- D. List of Observers

Attachment A – Meeting Introductory Information

Introductory Information NACEPT Superfund Subcommittee September 3-5, 2003 Meeting

The Superfund Subcommittee of the National Advisory Council for Environmental Policy and Technology (NACEPT) was established in June 2002 for the purpose of assisting EPA in identifying the future direction of the Superfund Program in the context of other federal and state waste and site cleanup programs. Specifically, the Subcommittee will review the relevant documentation and, to the extent possible, provide answers to questions that relate to: a) the role of the NPL, b) mega sites, and c) measuring program performance. The Subcommittee will operate as, and be subject to, the requirements of a Federal Advisory Committee.

Membership on the committee represents a diversity of interests. Subcommittee members include senior-level decision-makers and experts from: academia, business and industry, community and environmental advocacy groups, state, local and tribal governments, environmental justice, and non-governmental and professional organizations. Dr. Raymond Loehr, Professor of Civil Engineering at the University of Texas in Austin, is the chair of the Subcommittee.

The Subcommittee is working to accomplish its Charge through quarterly Subcommittee meetings and interim Work Group meetings over about an 18-month period. It is anticipated that a consensus report will result from the Subcommittee deliberations. However, where consensus cannot be reached, a written discussion of the views of Subcommittee members will be provided. As appropriate, the Subcommittee may also respond to issues in the form of “consultation,” i.e., dialogue, rather than a formal written report.

Interactive discussion and questioning for the purpose of probing an issue and clarifying a point will be encouraged. As such, any material developed by a Subcommittee member(s), any presentations by a Subcommittee member(s), or comments made by Subcommittee members at this and future meetings should neither be interpreted to reflect the current Subcommittee position on the subject under discussion, nor their future position as it may evolve over the course of deliberation. Additionally, the comments of an individual Subcommittee member should not be interpreted as positions of the EPA. The Subcommittee will deliberate thoroughly before developing consensus findings, conclusions or recommendations. Any report on the opinion of the group will undergo rigorous review by all Subcommittee members before it is considered final and transmitted to EPA.

Subcommittee Meetings

To-date, the Subcommittee has held five meetings. Three were held in Washington D.C. (June 17-19, 2002; September 23-24, 2002 and January 7-8, 2003), one was held in Phoenix, AZ on March 12-14, 2003, and one was held in New Bedford, MA on June 17-19, 2003. A summary of the meetings can be obtained via the EPA website at (<http://www.epa.gov/oswer/SFsub.htm>). Highlights from the most recent meeting are included below.

June 2003 Meeting

The NACEPT Superfund Subcommittee held its fifth meeting June 17 through 19, 2003 in New Bedford, Massachusetts. The meeting was open to the public. The main purposes of the meeting included the following:

- Provide an opportunity for the Subcommittee to review and discuss the preliminary draft report (June 03).
- Engage the full Subcommittee in discussions regarding preliminary findings and recommendations developed by the writing teams, creating teams and work groups.
- Provide input from EPA Region 1, the state of Massachusetts and the Town of New Bedford regarding the New Bedford Harbor and related sites.
- Provide input from representatives of Environmental Justice communities.
- Establish a schedule for the development of the Subcommittee's report.
- Provide an opportunity for public comment.
- Provide Subcommittee members an opportunity to visit a large complex sediment site.

Summary of Activity Since Last Meeting

Efforts during the period of time between the June, 2003 and September, 2003 meetings concentrated on reviewing and revising the Draft Report. Additionally, some Subcommittee members participated in work group efforts to address the questions that arose in New Bedford regarding the following issues:

- The HRS,
- The role of the Agency for Toxic Substances and Disease Registry and National Institute of Environmental Health Sciences,
- Tribal and Community Coordination and
- Budget for the Superfund Program.

Objectives of the September 3-5, 2003 Meeting

The September 3-5, 2003 meeting in Washington D.C. is intended to accomplish the following objectives:

- Provide an opportunity for the Subcommittee to review and discuss the August 03 draft report.
- Engage the full Subcommittee in discussions regarding recommendations.
- Identify any gaps in the recommendations being considered by the Subcommittee
- Revise the schedule for the development of the Subcommittee's report.
- Provide an opportunity for public comment.

This is an open session for public record. Interested individuals and members of the press have been invited to attend as observers. The Subcommittee will be entertaining questions from the floor during the designated times on the agenda. Angelo Carasea, the Designated Federal Officer, will be available to assist reporters and other interested individuals who would like additional information. His contact information is available on the Roster at the registration table.

Future Meetings

Future meetings of the Subcommittee are planned in the Washington D.C. area as follows:

- November 5-7
- December 9-11

A third day was added to the original schedule for each of these meetings. It is anticipated that the agendas will start around 1:00 pm on the first day and end between noon and 3:00 PM on the third day.

Attachment B – Presentations and Handouts

The following presentations and handouts are available electronically as separate documents:

1. Subcommittee Charge
2. August 03 Draft Subcommittee Report
3. Next Steps Presentation

Attachment C – List of Subcommittee Members and Staff in Attendance

Subcommittee Members

Raymond Loehr - Chairman
University of Texas at Austin

Sue Briggum
Waste Management

Doris Cellarius
Sierra Club

Grant Cope
Earthjustice

Richard Dewling
Dewling Associates, Inc.

Steve Elbert
BP America, Inc.

Jane Gardner
General Electric

Glen Hammer
Ashland, Inc.

Dolores Herrera
Environmental Justice

Robert Hickmott
Smith-Free Group

Aimee Houghton
Center for Public Environmental
Oversight

Ken Jock
St. Regis Mohawk Tribe

Frederick Kalisz
City of New Bedford

Gary King
State of Illinois

Ed Lorenz
Alma College

Mildred McClain
Harambee House, Inc.

Michael Mittelholzer
National Association of Home Builders

Tom Newlon
Stoel Rives

Lindene Patton
Zurich North America

Victoria Peters
State of Colorado

Kate Probst
Resources for the Future

Catherine Sharp
State of Oklahoma

Alexandra Shultz
Mineral Policy Center

Mel Skaggs
InDepth Environmental Associates

Richard Stewart
New York University School of Law

Wilma Subra
Louisiana Environmental Action
Network

Michael Tilchin
CH2M Hill

Jason White
Cherokee Nation

Robin Wiener
Institute of Scrap Recycling Industries

Designated Federal Officer

Angelo Carasea
U.S. Environmental Protection Agency

EPA Representatives

Barry Breen
U.S. Environmental Protection Agency

Phyllis Harris
U.S. Environmental Protection Agency

Lawrence Starfield
U.S. Environmental Protection Agency

Facilitation Staff

Meridian Institute – Dillon, CO

John Ehrmann

Molly Mayo

**Ross & Associates Environmental
Consulting, Ltd.**

Elizabeth McManus

Attachment D - List of Observers and Public Comments

NACEPT Superfund Subcommittee June 17-18, New Bedford, MA

Public Comment:

NMA - Written comments circulated & posted on Subcommittee website

Public Observers:

- | | |
|---|--|
| 1. Scott Alfonse City of New Bedford | 12. Kerry Kelly American Chemistry Council |
| 2. Steve Caldwell U.S. EPA | 13. Stephen Langel IWP News |
| 3. Patricia Casano GE | 14. Alice Ludington U.S. EPA |
| 4. William Chantry DynCorp | 15. Jean Martin BP |
| 5. Paul Conner EPA | 16. Robert Myers EPA |
| 6. Carolyn Copper U.S. EPA | 17. Paul Nadeau U.S. EPA |
| 7. Rod Dwyer NMA | 18. Meredith Preston BNA |
| 8. Linda Eaton Morgan Lewis | 19. P.S. Sarin George Washington University |
| 9. Tom Edikson SABW LLP | 20. Kris Swanson ASTSWMO |
| 10. Lisa Gover NTEC | 21. Guy Tomassani U.S. EPA |
| 11. Steven Jones ATSDR | 22. Victoria Van Roden EPA |

23. Rosemary Wisniewski
DynCorp

24. Sidney Wolf
EMS